

REMARKS

Claims 1-47 are pending, with claims 1, 19, 37, 42, 44 and 46 being independent.

Reconsideration and allowance of the above-referenced application are respectfully requested.

Claims 1-18, 37-43, 46 and 47 are allowed. This indication of allowable subject matter is acknowledged and appreciated.

Claims 19-36 and 44-45 stand rejected under 35 U.S.C. § 101 as allegedly being directed to non-statutory subject matter. This contention is respectfully traversed.

The Office states that, "Claims 19-36 and 44-45 are directed to a 'machine-readable medium having a software product embodied therein'. The instant specification includes a signal as a machine-readable medium, at paragraph 78. Signals fail to fit any of the four statutory classes of invention." *See* 12-28-2007 Office Action at page 2. However, as clearly stated in the specification:

The invention and all of the functional operations described in this specification can be implemented in digital electronic circuitry, or in computer hardware, firmware, software, or in combinations of them, such as the structural means disclosed in this specification and structural equivalents thereof. Apparatus of the invention can be implemented in a software product (e.g., a computer program product) tangibly embodied in a machine-readable storage device for execution by a programmable processor; and processing operations of the invention can be performed by a programmable processor executing a program of instructions to perform functions of the invention by operating on input data and generating output. The invention can be implemented advantageously in one or more software programs that are executable on a programmable system including at least one programmable processor coupled to receive data and instructions from, and to transmit data and instructions to, a data storage system, at least one input device, and at least one output device. Each

software program can be implemented in a high-level procedural or object-oriented programming language, or in assembly or machine language if desired; and in any case, the language can be a compiled or interpreted language. Suitable processors include, by way of example, both general and special purpose microprocessors. Generally, a processor will receive instructions and data from a read-only memory, a random access memory and/or a machine-readable signal (e.g., a digital signal received through a network connection). Generally, a computer will include one or more mass storage devices for storing data files; such devices include magnetic disks, such as internal hard disks and removable disks, magneto-optical disks, and optical disks. Storage devices suitable for tangibly embodying software program instructions and data include all forms of non-volatile memory, including by way of example semiconductor memory devices, such as EPROM (electrically programmable read-only memory), EEPROM (electrically erasable programmable read-only memory), and flash memory devices; magnetic disks such as internal hard disks and removable disks; magneto-optical disks; and optical disks, such as CD-ROM disks. Any of the foregoing can be supplemented by, or incorporated in, ASICs (application-specific integrated circuits).

See Specification at ¶ 78 (emphasis added).

The plain language above clearly states that a processor can receive instructions from a machine-readable signal, but does **not** define a machine-readable **medium** to **include** a signal. Moreover, by this response, any such implication is expressly disclaimed with respect to the present application. Thus, a machine-readable medium, as recited in claims 19-36 and 44-45 of the present application, does **not** include a signal and **is** statutory subject matter under 35 U.S.C. § 101. Accordingly, withdrawal of the rejection of claims 19-36 and 44-45 is respectfully requested.

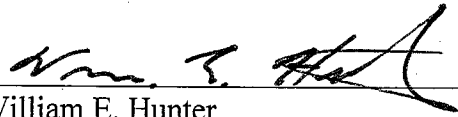
The foregoing comments made with respect to the positions taken by the Examiner are not to be construed as acquiescence with other positions of the Examiner that have not been explicitly contested. Accordingly, the above arguments for patentability of a claim should not be construed as implying that there are not other valid reasons for patentability of that claim or other claims.

A formal notice of allowance is respectfully requested. In the absence of such, a telephone interview with the Examiner and the Examiner's supervisor is respectfully requested to discuss the rejection under 35 U.S.C. § 101.

No fees are believed due. Nonetheless, please apply necessary charges or credits to deposit account 06-1050.

Respectfully submitted,

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